

EXHIBIT 17

1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF OHIO

3 EASTERN DIVISION

4
5 -----) MDL No. 2804

6 IN RE: NATIONAL)

7 PRESCRIPTION OPIATE)

8 LITIGATION)

9 -----) Case No. 17-md-2804

10 THIS DOCUMENT RELATES TO:)

11 ALL CASES)

12 -----) Hon. Dan A. Polster

13
14 HIGHLY CONFIDENTIAL

15 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

16
17 VIDEOTAPED DEPOSITION OF

18 RANDY HEISER

19
20 February 19, 2019

21
22 Pittsburgh, Pennsylvania

1 distributor of controlled substances for a little less
2 than two years while you were still there?

3 A. That's -- well, I don't recall when we
4 actually brought the controls in. I know that we
5 started with generics and then my recollection is at
6 some point we added the controls. That dating sounds
7 about correct, but I don't recall the exact date.

8 Q. Sure, sure.

9 And the records will reflect what they
10 were. And, again, I'll -- I'll represent to you that
11 they show that -- that the -- the controlled substances started
12 in -- in about November of 2009 --

13 A. Okay.

14 Q. -- so...

15 During that time period, do you have any
16 recollection of whether or not HBC designed a system
17 to identify suspicious orders of controlled
18 substances?

19 A. We had an integrated system in place to
20 monitor the movement of all controls. It started as
21 we received product from the warehouse. It was
22 scanned and electronically recorded. When it was
23 placed on the shelves, again, it was scanned and
24 electronically recorded. When it was dispensed or

1 when it was -- an order was picked based upon a
2 store's order, it was scanned and electronically
3 recorded. When the totes were placed in a truck, it
4 was scanned and electronically recorded. When those
5 delivery vehicles arrived at the Giant Eagle location,
6 the totes were scanned and electronically recorded.
7 When the merchandise was unpacked, it was, again,
8 scanned and electronically recorded. When we
9 dispensed the product through our dispensing system,
10 the product was scanned and electronically recorded.
11 When we gave the medicine to the patient, it went
12 through our cash register, it was scanned and
13 recorded.

14 We also had corporate oversight of both
15 the stores and the warehouse. The warehouse had
16 buyers that were monitoring from a human perspective
17 the orders that were placed by the stores and also the
18 orders that were placed to the manufacturers. The
19 system to monitor the store activity involved our
20 pharmacists who are required to on a monthly basis
21 compare dispensing activity to purchase activity,
22 identify discrepancies, and try to find out what
23 those -- why those discrepancies occurred.

24 Our district managers were responsible to

1 verify that that analysis of dispensing activity
2 versus purchasing activity was being conducted
3 properly. And our vice president of pharmacy
4 operations was responsible to see that our district
5 managers were performing those particular follow-ups.

6 So we had a -- a fully integrated system
7 of controls in place to be sure that we were trying to
8 detect and prevent any type of theft or diversion.

9 Q. My question was more specific. My
10 question was: Did HBC design a system to identify
11 suspicious orders of controlled substances?

12 So my question is what -- to you, what is
13 a suspicious order of a controlled substance?

14 A. I mean, we -- me -- our integrated system
15 looked for, you know, any -- any types of -- of
16 deviations. Our focus was on theft and the -- you
17 know, ways to -- to get it -- get it out if anyone was
18 taking it out of the system.

19 The buyers were looking at, you know,
20 orders as they were coming in. So if someone, you
21 know, was on -- if they saw something that came in and
22 they said they wanted 40 pieces and they have never
23 ordered 40 pieces, they would typically call to see if
24 it was a -- a fat finger situation or if the system,

1 10, the companies responded, and do you see at the
2 bottom of Page 9, the first written policy identified
3 is there at that Bates range and then it says it's
4 effective from 8/1 of 2014.

5 Do you see -- do you see that at the
6 bottom?

7 A. I see the sentence: "Apparent version of
8 HBC policy effective 8/1 of 2014."

9 Q. Okay. And then if we look to the next
10 page, I think you'll see that the rest of the written
11 policies identified become later, you know, later in
12 time as opposed to earlier in time.

13 My -- my -- given that the company has
14 identified the first written policy as being
15 August 1st of 2014, my question is simply: Do you
16 have any recollection of any written policies or
17 procedures relating to suspicious order -- a
18 suspicious order monitoring system that were in effect
19 prior to August 1st of 2014?

20 A. I mean, I think I've already described
21 these integrated systems that were in place to monitor
22 the movement of all products throughout the Giant
23 Eagle supply chain.

24 Q. And can you say under oath today whether

1 or not that integrated system had components that were
2 specifically designed to identify suspicious orders of
3 controlled substances?

4 MR. KOBRIN: Object to form.

5 BY THE WITNESS:

6 A. I think I've already described how the
7 system was in place to -- to monitor the movement and
8 to identify anything that was out of line.

9 BY MR. HUDSON:

10 Q. Right. And as part of that, do you know
11 as you sit here today whether or not that involved
12 monitoring and identifying orders of controlled
13 substances of unusual size?

14 MR. KOBRIN: Object to form, asked and answered.

15 BY THE WITNESS:

16 A. I -- I think I've already answered the
17 fact that we had people at a corporate level that were
18 monitoring the orders that were sent from the store to
19 the HBC warehouse. Those buyers were also monitoring
20 the orders that were sent from the warehouse to the
21 manufacturers.

22 BY MR. HUDSON:

23 Q. So who -- who at corporate was monitoring
24 orders of controlled substances to identify those of

1 unusual size?

2 MR. KOBRIN: Object to form.

3 BY THE WITNESS:

4 A. I think I already -- I already stated they
5 were -- they were pharmacy buyers that were
6 responsible for monitor -- monitoring those orders.

7 BY MR. HUDSON:

8 Q. And who were the pharmacy buyers, what
9 were their names?

10 A. I don't recall.

11 Q. What did the pharmacy buyers do to monitor
12 the orders to try to identify those of unusual size?

13 A. They are -- they are looking at the orders
14 that came from the pharmacies before they actually
15 submit their orders into the manufacturers.

16 Q. How often did they review those orders?

17 A. I don't recall.

18 Q. Well, what was the criteria being applied
19 to try to determine whether it was an order of unusual
20 size?

21 A. I don't recall.

22 Q. How many orders did the pharmacy buyers
23 identify during the time that you were there that --
24 that were identified as being potentially suspicious